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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,159	12/28/2000	Marc P. Kaplan	129250-002064/US	8689

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EXAMINER	
HOSSAIN, FARZANA E	

ART UNIT	PAPER NUMBER
2424	

MAIL DATE	DELIVERY MODE
06/21/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/751,159	KAPLAN ET AL.	
	Examiner	Art Unit	
	FARZANA HOSSAIN	2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 September 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5,7-15 and 17-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5,7-15 and 17-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/08/2010 has been entered.

Response to Amendment

2. This office action is in response to communications filed 09/08/2010. Claims 1, 12, 17, 20 are amended. Claims 2-5, 8-10, 13, 15, 18, 19, 21 and 22 are original. Claims 11 have been previously presented. Claims 6, 16 are cancelled.

Response to Arguments

3. Applicant's arguments with respect to claims 1-5, 7-15 and 17-22 have been considered but are moot in view of the new ground(s) of rejection.

Regarding the claims the applicant argues that Eldering in view of Bigham does not disclose an ATM network and encapsulated in IP packets (Page 10).

In response to the arguments, Eldering discloses Internet protocol (Page 3, paragraph 0038). See response for amended limitations.

Regarding Claim 22, the applicant does not traverse the Official notice rather argues that the Official Notice does not extend to the limitations as argued for Claim 1. See response above.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-5, 7-15 and 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering (US 2005/0193410) in view of Rowe et al (US 2001/0003846 and hereafter referred to as “Rowe”).

Regarding Claims 1, 12 and 20, Eldering discloses method of delivering video via an ATM based switched communication network, in a video distribution network including a head end node, one or more egress nodes, a service management system, a switched communication network, wherein the head end node supplies one or more program streams via the switched communication network to one or more egress

nodes, a system for delivering video, a system for delivering video via an switched communication network comprising

A head end node for transmitting one or more program streams via the switched network (Figure 4,302) to one or more egress nodes (Figure 4, 306, Page 3, paragraph 0041) And

The at least one egress nodes, a router for receiving the one or more program streams (Figure 5, router, Page 4, paragraph 0051), storage element for storing advertisements (Page 4, paragraph 0056, Figure 5, 512), the egress node including a splicer element (Figure 4, 304, 306) for inserting one or more advertisements or stored advertisements into the one or more program streams at the egress node for delivery to individual subscribers such that a particular subscriber receives a program stream with an advertisement that corresponds to demographic characteristics of that particular subscriber (Figure 5, Page 4, paragraph 0048, 0051, 0055, Page 2, paragraph 0033, Page 5, paragraph 0061).

Eldering is silent on ATM based network and program streams encapsulating in IP packets.

Rowe discloses a system for delivering video via an ATM based switched communication network (Page 11, paragraph 0101, Page 21, paragraph 0231) comprising a head end node for transmitting one or more program streams encapsulated in Internet Protocol (IP) packets via the switched network (Page 3, paragraph 0021, Page 21, paragraph 0235, Page 23, paragraphs 0248-0251). Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify Eldering to include the remaining limitation as taught by Rowe to enable simultaneous distributions of multiple streaming contents (Page 4, paragraph 0031) as disclosed by Rowe.

Regarding Claim 2, Eldering and Rowe disclose all the limitations of Claim 1. Eldering discloses inserting splice points in the one or more program streams at the head end node (Page 5, paragraph 0065).

Regarding Claims 3 and 13, Eldering and Rowe disclose all the limitations of Claims 1 and 12. Eldering discloses splicer element inserting one or more advertisements comprises splicing an advertising stream wherein the advertising stream includes the one or more advertisements (Page 5, paragraph 0061, 0065, Figure 304, 306).

Regarding Claim 4, Eldering and Rowe disclose all the limitations of Claim 3. Eldering discloses splicing further comprises: responsive to a command to begin splicing, identifying a splice point in the advertising stream; buffering frames after the splice point in the advertising stream (Page 4, paragraph 0056, Page 5, paragraph 0061, 0065); identifying a splice point in the program stream (Page 5, paragraphs 0061-0065); switching to the advertising stream (Page 5, paragraph 0061, 0065, Figure 6A, Figure 6B); and outputting an ad-inserted stream that includes frames from the program stream and advertising stream, whereby the program stream and advertising stream are adaptively synchronized by aligning the splice points to enhance the quality of video transmission (Page 5, paragraph 0061, 0065, Page 3, paragraph 0031, Figures 6A, 6B).

Regarding Claims 5 and 15, Eldering and Rowe disclose all the limitations of Claim 1 and 12 respectively. Eldering discloses wherein N program streams are transmitted via the switched communication network and wherein N x M ad-inserted streams are created at the one or more egress nodes, where N and M are integers and where M represents the number of demographic groupings of the individual subscribers (Page 4, paragraph 0054-0055).

Regarding Claims 7 and 17, Eldering and Rowe disclose all the limitations of Claim 1 and 12 respectively. Eldering discloses wherein the step of transmitting comprises multicasting the program streams via the switched communication network (Page 4, paragraph 0038).

Regarding Claims 8 and 18, Eldering and Rowe disclose all the limitations of Claim 7 and 17 respectively. Rowe discloses the step of transmitting the ad-inserted streams to subscribers via a digital subscriber line (DSL) interface (Pages 21-22, paragraph 0233). Eldering discloses the step of transmitting the ad-inserted streams to subscribers via an Ethernet interface (Page 11, paragraph 0122, Page 21, paragraph 0231).

Regarding Claim 9, Eldering and Rowe disclose all the limitations of Claim 7. Eldering discloses the step of transmitting the ad-inserted streams to subscribers via an Ethernet interface (Page 11, paragraph 0122, Page 21, paragraph 0231).

Regarding Claim 10, Eldering and Rowe disclose all the limitations of Claim 1. Rowe discloses wherein the program streams supplied by the head end node include program streams provided to the head end node from a remote source and program

streams provided to the head end node from a local source (Page 22, paragraphs 0238).

Regarding Claims 11 and 19, Eldering and Rowe disclose all the limitations of Claim 1 and 12 respectively. Eldering discloses inserting one or more advertisements includes receiving subscriber management information; and selecting a particular advertisement based on the subscriber management information; and retrieving the particular advertisement at the one or more egress nodes (Page 1, paragraph 0004, Page 2, paragraph 0033, Page 3, paragraph 0048).

Regarding Claim 14, Eldering and Rowe disclose all the limitations of Claim 13. Eldering discloses wherein the splicer element comprises: a plurality of input processors, one of the plurality of input processors receiving the program stream (Page 5, paragraphs 0063, 0065, Figure 6A, Figure 6B) and another of the plurality of input processors receiving the advertising stream (Page 5, paragraphs 0063, 0065, Figure 6A, Figure 6B); a plurality of data buffers, each of the plurality of data buffers coupled to a corresponding one of the plurality of input processors (Page 5, paragraphs 0061, 0063, 0065, Figure 6A, Figure 6B); and at least one output processor coupled to the plurality of data buffers, wherein, responsive to a splice point being identified in the advertising stream, one of the plurality of data buffers stores frames after the splice point in the advertising stream (Page 5, paragraphs 0063, 0065, Figure 6A, Figure 6B) and wherein, responsive to a splice point being identified in the program stream, the at least one output processor switches to the advertising stream so that a single bitstream

is provided as output that includes frames from the program stream and advertising stream (Page 5, paragraphs 0063, 0065, Figure 6A, Figure 6B).

Regarding Claim 21, Eldering and Rowe disclose all the limitations of Claim 20. Eldering discloses end node comprises: an encoder for receiving and encoding the program streams (Page 4, paragraph 0064); an encapsulator for converting the encoded program streams into a format for transmission via the switched communication network; and a service management system in communication with the encoder (Page 5, paragraph 0068), the encapsulator and the switched communication network for provisioning and managing distribution of video and demographically-targeted advertising (Figure 3, Page 2, paragraph 0033, Page 4, paragraph 0048). Rowe discloses an encapsulator (Page 3, paragraph 0021, Page 21, paragraph 0235, Page 23, paragraphs 0248-0251, Figure 1, RCON).

Regarding Claim 22, Eldering and Rowe disclose all the limitations of Claim 21. Eldering fails to explicitly disclose a storage element for time delaying delivery. Official notice is taken that it is notoriously well known in the art wherein the head end node further comprises a storage element for storing encoded program streams for time-delayed delivery as for the case of video on demand for increased functionality

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FARZANA HOSSAIN whose telephone number is (571)272-5943. The examiner can normally be reached on Monday-Friday, 1:30 pm to 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pankaj Kumar can be reached on 571-272-3011. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/FARZANA HOSSAIN/
Primary Examiner, Art Unit 2424

June 12, 2011